

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 12, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:12MD-176

Maui

Grant of Perpetual, Non-Exclusive Easement to Department of Defense, Civil Defense Division, for Public Warning Siren Purposes; Issuance of Immediate Construction Right-of-Entry, Mala Wharf, Lahaina, Maui, Tax Map Key: (2) 4-5-005: Portion of 001.

APPLICANT:

State of Hawaii Department of Defense, Civil Defense Division.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lahaina situated at Maui, Hawaii, identified by Tax Map Key: (2) 4-5-005: Portion of 001, as shown on the attached map labeled Exhibit 1.

AREA:

100 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Maui CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by the Department of Land & Natural Resources, Division of Boating & Ocean Recreation under Executive Order No. 4315 for public purposes.

CHARACTER OF USE:

Right, privilege and authority to install, access, use, maintain, repair, replace and remove an emergency civil defense warning siren and related equipment over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

EASEMENT TERM:

Perpetual

ANNUAL RENT:

Gratis

EXHIBITS:

- Exhibit #1- Tax Map of the subject area.
- Exhibit #2- Executive Order No. 4315
- Exhibit #3- Department of Accounting & General Services, Declaration of 343 Environmental Assessment Exemption.
- Exhibit #4- Site map with proposed siren location.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 5 that states "Routine and emergency repair and restoration of existing structures and facilities on state lands involving negligible or no expansion or change of use beyond that previously existing."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Department of Defense, Civil Defense Division has requested to utilize an area of 100 square feet for the installation of a new warning siren. This civil defense warning siren is the basic initial method for alerting the public of an impending emergency condition such as a hurricane, tsunami, or other natural or man-made emergency. Use of this warning siren will be solely for public purposes.

The new warning siren, with an estimated cost of \$80,000.00, will have omni-directional siren speakers and be powered by photovoltaic panels and a battery. The siren pole shall be comprised of a fiberglass composite material. There will be siren speakers, siren controller equipment and a battery in a locked control cabinet mounted to the side of the pole. The siren pole will be approximately fifty feet high from the surface grade to the top of the photovoltaic panels mounted at the very top, and includes a concrete footing base occupying a footprint of 12 square feet.

The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Division of Boating and Ocean Recreation (DOBOR) currently has management and control of the requested area via Governor's Executive Order No. 4315. Staff did consult with DOBOR's Maui District Manager regarding the location, size and the additional intended use of their Executive Order area. There were no objections, concerns or foreseeable problems with regards to the proposed use.

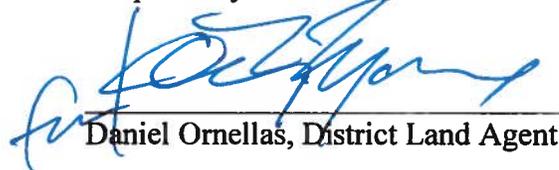
The site of the new siren and pole was selected due to its open area and will not impact existing uses at the harbor facility. Sufficient space is also available for the required equipment needed during the installation and for future maintenance of the pole and warning system. Staff is including a recommendation below for the issuance of an immediate construction right-of-entry to Applicant to expedite the installation of the siren.

The requested type of uses has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

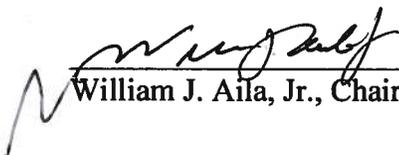
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the State of Hawaii, Department of Defense, Civil Defense Division covering the subject area for emergency warning siren system purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of an immediate construction right-of-entry to the State of Hawaii, Department of Defense, Civil Defense Division, to remain in effect until the easement document is executed, subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Daniel Ornellas, District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

being that portion of Government (Crown) Land of Alamihi, including a portion of Mala Wharf Approach and portion of the filled and submerged land fronting Mala Wharf, situate at Alamihi, Lahaina, Maui, Hawaii, and identified as "Mala Wharf and Surrounding Areas," containing an area of 24.530 acres, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, being respectively designated C.S.F. No. 24,541 and H.S.S. Plat 1112, both dated October 8, 2007.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Recreation, shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.
Done at the Capitol at Honolulu this 21st day of April, 2010.



Governor of the State of Hawaii

APPROVED AS TO FORM:



Deputy Attorney General

Dated: April 5, 2010

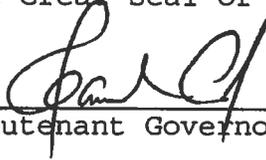


STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of Executive Order No. 4315 setting aside land for public purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant Governor of the State of Hawaii, has hereunto subscribed his name and caused the Great Seal of the State to be affixed.



Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 22nd 10 day of April, A.D. 2010

10
22
P1:03





STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 24,541
H.S.S. Plat 1112

October 8, 2007

MALA WHARF AND SURROUNDING AREAS

Alamihi, Lahaina, Maui, Hawaii

Comprising the following:

- A. Portion of the Government (Crown) Land of Alamihi, including a portion of Mala Wharf Approach.
- B. Portion of the filled and submerged land fronting Mala Wharf.

Beginning at the southeast corner of this parcel of land, at the northeast corner of Lahaina Sewer System, Governor's Executive Order 3206 and on the southwest side of Mala Wharf Approach, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAINA" being 4527.10 feet South and 5989.95 feet West, thence running by azimuths measured clockwise from True South:-

- 1. 86° 50' 155.26 feet along Lahaina Sewer System, Governor's Executive Order 3206;
- 2. 140° 25' 79.48 feet along Ala Moana Pumping Plant Site, Governor's Executive Order 1314;



3. 196° 32' 21.76 feet along Puupihā Cemetery, Governor's Executive Order 1320;
4. 140° 38' 1442.26 feet along Puupihā Cemetery, Governor's Executive Order 1320 and the remainder of the submerged land to a point, the geodetic position being:
 20° 53' 12.63" North Latitude and
 156° 41' 20.03" West Longitude
 (NAD-83);
5. 230° 38' 359.53 feet;
6. 172° 51' 30" 783.33 feet to a point, the geodetic position being:
 20° 53' 22.59" North Latitude and
 156° 41' 18.12" West Longitude
 (NAD-83);
7. 246° 26' 20" 540.17 feet to a point, the geodetic position being:
 20° 53' 24.73" North Latitude and
 156° 41' 12.90" West Longitude
 (NAD-83);
8. 354° 38' 1040.93 feet;
9. 32° 48' 359.61 feet, the true azimuth and distance from the end of Course 9 to Government Survey Triangulation Station "LAINA" being:
 242° 05' 44" 7384.57 feet;
10. 327° 49' 18" 499.11 feet;
11. 299° 14' 25.00 feet along Grant S-15,770 to County of Maui;
12. 29° 14' 5.00 feet along Grant S-15,770 to County of Maui;
13. 299° 14' 95.00 feet along Grant S-15,770 to County of Maui;
14. 209° 14' 15.00 feet along Grant S-15,770 to County of Maui;
15. 299° 14' 192.00 feet along Grant S-15,770 to County of Maui;

24,541

October 8, 2007

C.S.F. No. _____

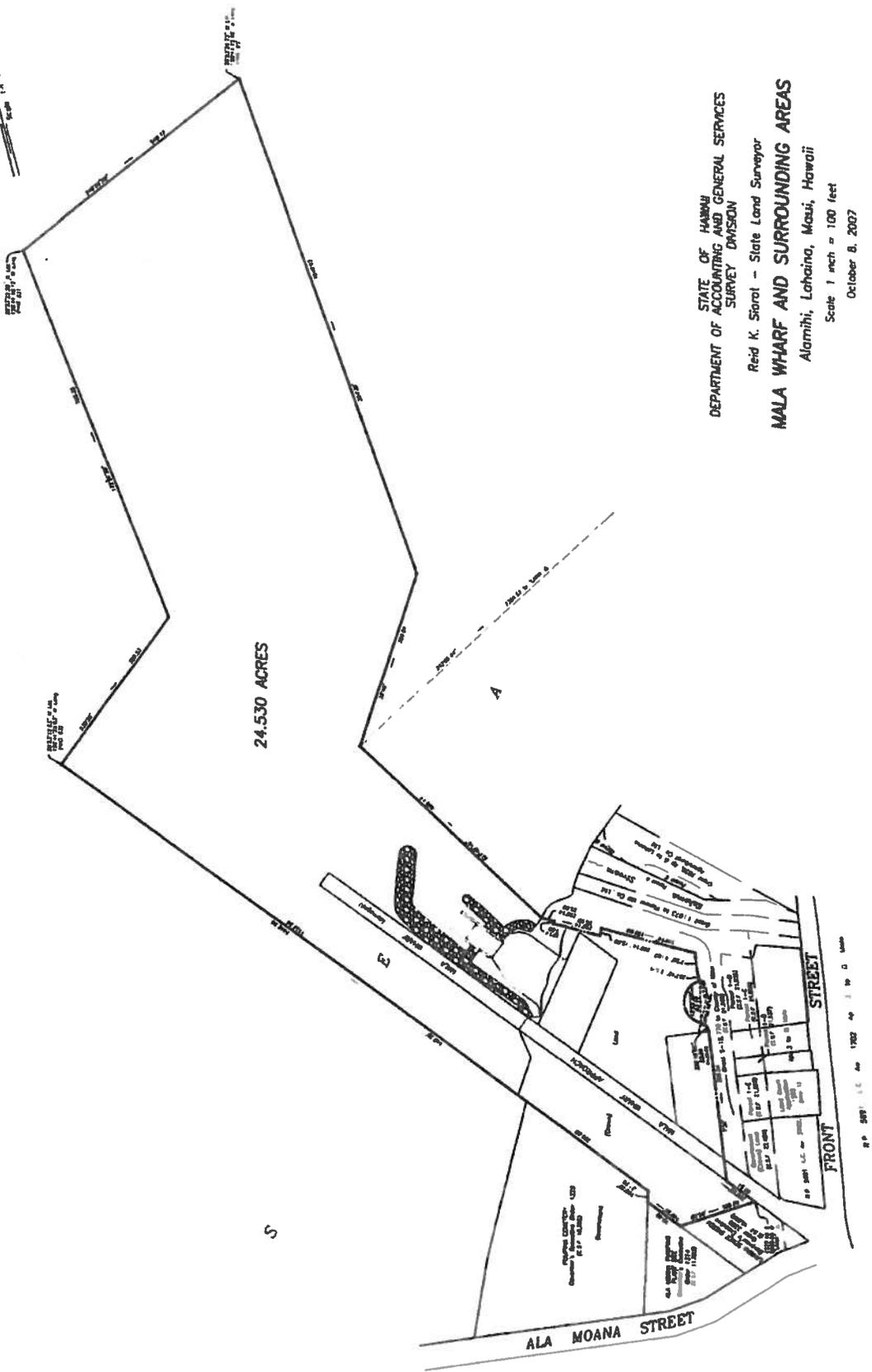
16. 7° 50' 41.07 feet along Grant S-15,770 to County of Maui;
17. 357° 42' 15.14 feet along Grant S-15,770 to County of Maui;
18. Thence along Grant S-15,770 to County of Maui on a curve to the left with a radius of 43.00 feet, the chord azimuth and distance being:
12° 22' 38" 83.19 feet;
19. Thence along Grant S-15,770 to County of Maui on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
332° 19' 08" 23.09 feet;
20. 7° 35' 296.54 feet along Grant S-15,770 to County of Maui and the remainder of Mala Wharf Approach;
21. 320° 25' 69.51 feet along the southwest side of Mala Wharf Approach to the point of beginning and containing an AREA OF 24.530 ACRES.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Glenn J. Kodani
Glenn J. Kodani
Land Surveyor ml

Compiled from CSF 10,692 and
other Govt. Survey Records.





24.530 ACRES

STATE OF HAWAII
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 SURVEY DIVISION
 Reid K. Starot - State Land Surveyor
MALA WHARF AND SURROUNDING AREAS
 Alahiki, Lahaione, Maui, Hawaii
 Scale 1 inch = 100 feet
 October 8, 2007

For Description See C.S.T. No. 24,341
H.S.S. PLAT 1112

Surveyed by J. C. Lewis
 Job No. 10-2007(2)

REDUCED NOT TO SCALE

EXHIBIT "B"

PRELIM. APPR'D
 Department of the
 Attorney General

10-2007(2) 10-2007(2)



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
1151 PUNCHBOWL STREET, HONOLULU, HAWAII 96813

DECLARATION OF EXEMPTION

from the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title &
Job Number:

Disaster Warning and Communication System Devices
for County of Maui, Various DAGS Job Nos.: 16-14-7237, 16-14-7242, _____

Project Description:

The State Department of Defense (DOD) has the responsibility to install and maintain disaster warning and communication system devices (warning sirens). The DOD has a priority listing of 241 siren sites that need new or replacement warning sirens. This Declaration of Exemption is for the replacement of an existing civil defense warning siren in Lahaina, Hawaii. The work includes the removal of the existing siren and pole (located near the intersection of Honoapiilani Highway and Kapunakea Street) and the installation of a new siren and pole, siren speakers, siren equipment, photo-voltaic panel, control and battery cabinets, and related work on TMK 4-5-005 :001 (located close to Mala Wharf).

The DOD's siren name designation for this siren site is: Old Lahaina Cannery (403).

Consulted Parties:

State Department of Defense (DOD), County of Maui-Civil Defense Agency, County of Maui-Department of Parks and Recreation, State Department of Accounting and General Services, and State Department of Land and Natural Resources – Land Division.

Exemption Class No. &
Description from Agency
Exemption List:

3. Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of the same including but not limited

Declaration of Exemption

Page 2 of 3

Disaster Warning and Communication System Devices for

County of Maui,

Various DAGS Job Nos.: 16-14-7237, 16-14-7242, _____

to: (A) single family residences not in conjunction with the building of two or more such units; (B) multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) stores, offices and restaurants designed for total occupant load of twenty persons or less, if not in conjunction with the building of two or more such structures; and (D) water, sewage, electrical, gas, telephone, and other essential public utility service extensions to serve such structures or facilities; and (E) accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences [HAR 11-200-8 (a) (3)].

Exempt Item No. &
Description From Agency
Exemption List:

21. Antennas, towers, poles, and civil defense sirens.

Exemption Class No. &
Description from Agency
Exemption List:

8. Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1996, Public Law 89-665, or Chapter 6E, HRS [HAR 11-200-8(a)(8)].

2. Infrastructure systems such as utilities, (e.g., water, drainage, sewer, power, telephone, data, and communication systems).

4. Demolition of structures or facilities such as roads, parking lots, bus shelters, walls, fences, signs, flag poles, paved courts, walkways, equipment and furniture.

5. Any related improvement or work that is limited to the Public facility site.

Exempt Item No. &
Description From Agency
Exemption List:

9. Zoning variances, except shoreline setback variances.



Approximate Location
of proposed siren.

Old Pier

Mala Wharf
Boat Ramp &
Parking Area

Drainage Canal

Access Road

Boat Yard

Front Street



North
Not to Scale

EXHIBIT "4"